

NOTICE OF PUBLIC HEARING

DATE: July 2, 2002
TO: ALL STATE AGENCIES AND EMPLOYEE ORGANIZATIONS
SUBJECT: PUBLIC HEARING TO ADOPT NEW SECTION 250
IN TITLE 2 OF THE CALIFORNIA CODE OF REGULATIONS

PLEASE TAKE NOTICE THAT on Tuesday, July 23, 2002, at 9:30 a.m. in Room 150 of the State Personnel Board, 801 Capitol Mall, Sacramento, CA 95814, the State Personnel Board (SPB) will conduct a public hearing. The purpose of the hearing is to receive oral comments on the recommendations of SPB staff to adopt new Section 250 in Title 2 of the California Code of Regulations.

We are providing you with the attached copy of the Board Item that will be presented to the five-member State Personnel Board (Board) at its July 23, 2002, hearing. If you have any questions regarding the hearing, you may contact Shelley Langan, Manager, Special Projects, Policy Division at (916) 654-8538.

Interested parties are invited to submit written comments no later than July 19, 2002, to Ms. Langan, State Personnel Board, 801 Capitol Mall, MS 55, P.O. Box 944201, Sacramento, CA 94244-2010. This is to allow time for SPB staff to provide copies of any written comments to the five-member Board for their consideration at the time of the hearing.

Mike Willihnganz
Chief, Policy Division

Attachment

TO: STATE PERSONNEL BOARD (SPB)

FROM: SHELLEY LANGAN, Manager, Special Projects Unit
MIKE WILLIHNGANZ, Chief, Policy Division

REVIEWED BY: LAURA M. AGUILERA
Assistant Executive Officer

REASON FOR HEARING:

A hearing has been scheduled to allow comments from interested parties on the proposed adoption of the new Section 250 to the California Code of Regulations (CCR). The new section, entitled *Requirement That Selection Be Based on Merit and Fitness*, defines merit and fitness as the bases of the State's selection system and substantiates the requirement that selection decisions in the State civil service be made in a job-related, competitive manner.

SUMMARY OF ISSUES:

Article VII of the California Constitution requires that all appointments and promotions in the State civil service be made on the basis of merit and that the State Personnel Board (SPB) oversee the State's selection system and enforce the State's civil service laws. The SPB is further authorized to promulgate rules and regulations to ensure compliance with these civil service laws.

The proposed new Section 250 clarifies the State's constitutional mandate to utilize a selection system based on merit and fitness by explicitly defining merit and fitness when making permanent appointments and promotions in the State's civil service. In addition, the proposed new section clarifies that merit in the State's selection system extends beyond the administration of civil service examinations and the establishment of eligible lists. The State's selection system encompasses all steps in the selection process, including recruitment and advertising, testing for the establishment of eligible lists, hiring interviews, background/reference checks, medical evaluation, drug testing, psychological screening, and civil service probation.

RECOMMENDATION:

That the following Resolution be adopted:

WHEREAS, Article VII, Section 1b, Constitution of the State of California, requires that appointments and promotions in the State's civil service be made on the basis of merit; and

WHEREAS, Article VII, Section 3, Constitution of the State of California, and Government Code Section 18701 provide the five-member State Personnel Board with the administrative authority to oversee the State's selection system and enforce the State's civil service laws and to adopt rules authorized by statute; and

WHEREAS, the State's selection system extends beyond the administration of examinations and the establishment of eligible lists and includes recruitment and advertising, testing for the establishment of eligible lists, hiring interviews, background/reference checks, medical evaluation, drug testing, psychological screening, and civil service probation; therefore, be it

RESOLVED, that the five-member State Personnel Board adopts the attached new California Code of Regulations Section 250.

Attachment: *Proposed Section 250. Requirement That Selection Be Based on Merit and Fitness*

Regulation Governing Selection on the Bases of Merit and Fitness

All new text is indicated by underline. A double underline with italics indicates new text that is intended to be single underlined in the final printing.

Title 2. ADMINISTRATION

Division 1. Administrative Personnel

Chapter 1. State Personnel Board

§ 250. Requirement That Selection Be Based on Merit and Fitness.

(a) Appointments to positions in the State civil service may be made by appointment from eligible lists, appointment through transfer, as defined in Government Code Section 18525.3, or appointment by reinstatement, as defined in Government Code Section 19140.

(b) Eligible lists shall be created only on the basis of merit and fitness, and, as such, shall result from:

(1) Broad and inclusive recruitment strategies; and,

(2) Candidate performance in competitive selection procedures that assess merit and fitness; are job-related and competitive in nature; and are designed and administered to maximize validity, reliability, and objectivity in selecting those candidates who best meet the selection need.

(c) Appointments from eligible lists shall be made only on the basis of merit and fitness and, as such, shall be:

(1) Based on consideration of each individual's qualifications for a position, including knowledge, skills, abilities, experience, education, training, intelligence, physical and mental fitness, and personal characteristics, relative to job requirements;

(2) Made solely on the basis of merit and fitness ascertained through selection procedures including, but not limited to, hiring interviews, reference checks, background checks, and/or any other procedures, all of which shall be job-related and competitive in nature and

designed and administered to maximize validity, reliability, and objectivity in selecting those individuals who best meet the selection need; and

(3) Made in a manner consistent with provisions with Sections 254, 254.1, and 254.2 related to the certification of eligibles.

(d) Appointments made on the basis of transfer, as defined in Government Code Section 18525.3, or reinstatement, as defined in Government Code Section 19140, shall be made only on the basis of merit and fitness and, as such, shall:

(1) Be based solely on consideration of each individual's qualifications for a position, including knowledge, skills, abilities, experience, education, training, intelligence, physical and mental fitness, and personal characteristics, relative to job requirements; and

(2) Result from selection procedures including, but not limited to, hiring interviews, reference checks, background checks, and/or any other procedures, all of which shall be job-related and competitive in nature and designed and administered to maximize validity, reliability, and objectivity in selecting those individuals who best meet the selection need.

(e) Permanent appointments to the civil service shall be made only after completion of the required probationary period. The probationary period is part of the selection process, and, as such, assessment of employee performance during the probationary period shall be made on the basis of merit and fitness with regard to the individual's qualifications, including knowledge, skills, abilities, experience, education, training, intelligence, physical and mental fitness, and personal characteristics, relative to job requirements and his/her job-related performance.

(f) All phases of the selection process, including examining, eligible list creation, appointment, and completion of the civil service probationary period, shall provide for the fair and equitable treatment of applicants and employees on an equal opportunity basis without regard to political affiliation, race, color, ancestry, national origin, sex, sexual orientation, religion, disability, medical condition, age, or marital status.

(g) Nothing herein shall be construed so as to contravene the intent and purpose of Article VII, Section 6, of the California Constitution, which provides for the granting of preferences in state civil service to veterans and their surviving spouses.

NOTE: Authority cited: Section 18701, Government Code.

REFERENCE: Article 7, Sections 1 and 6, California Constitution; Sections 18500, 18525.3, 18900, 18930, 18950, 18951, 18971-18979, 19050, 19052, 19140, 19171, 19173, and 19702.2, Government Code.